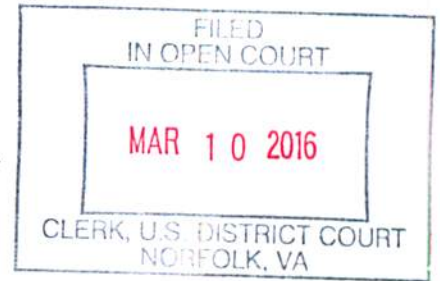


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



UNITED STATES OF AMERICA

v.

GERALD ANDREW DARBY,

Defendant,

UNDER SEAL

CRIMINAL NO. 2:16cr 36

18 U.S.C. § 2252(a)(2)

Receipt of Images of Minors

Engaging in Sexually Explicit Conduct

(Counts 1-5)

18 U.S.C. § 2252(a)(4)(B)

Possession of Images of Minors Engaging

in Sexually Explicit Conduct

(Counts 6-8)

18 U.S.C. § 2253

Forfeiture

INDICTMENT

March 2016 Term -- At Norfolk, Virginia

COUNT ONE

THE GRAND JURY CHARGES THAT:

On or about October 27, 2014, in Suffolk, in the Eastern District of Virginia, and elsewhere, defendant GERALD ANDREW DARBY did knowingly receive a visual depiction using a means and facility of interstate and foreign commerce and that had been shipped and transported in and affecting interstate and foreign commerce, and which contained materials which had been so shipped and transported, by any means including by computer, and the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct, and such visual depiction was of such conduct, that is: GERALD ANDREW DARBY received a visual depiction bearing the file name "[Jane Doe]+9yr+00016.jpg.jpg".

(In violation of Title 18, United States Code, Sections 2252(a)(2), 2256(1) and (2).)

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

On or about November 15, 2014, in Suffolk, in the Eastern District of Virginia, and elsewhere, defendant GERALD ANDREW DARBY did knowingly receive a visual depiction using a means and facility of interstate and foreign commerce and that had been shipped and transported in and affecting interstate and foreign commerce, and which contained materials which had been so shipped and transported, by any means including by computer, and the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct, and such visual depiction was of such conduct, that is: GERALD ANDREW DARBY received a visual depiction bearing the file name "1415935623642.jpg".

(In violation of Title 18, United States Code, Sections 2252(a)(2), 2256(1) and (2).)

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

On or about February 17, 2015, in Suffolk, in the Eastern District of Virginia, and elsewhere, defendant GERALD ANDREW DARBY did knowingly receive a visual depiction using a means and facility of interstate and foreign commerce and that had been shipped and transported in and affecting interstate and foreign commerce, and which contained materials which had been so shipped and transported, by any means including by computer, and the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct, and such visual depiction was of such conduct, that is: GERALD ANDREW DARBY received a visual depiction bearing the file name "Scargirl sucks dad (part2).jpg".

(In violation of Title 18, United States Code, Sections 2252(a)(2), 2256(1) and (2).)

COUNT FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about March 30, 2015, in Suffolk, in the Eastern District of Virginia, and elsewhere, defendant GERALD ANDREW DARBY did knowingly receive a visual depiction using a means and facility of interstate and foreign commerce and that had been shipped and transported in and affecting interstate and foreign commerce, and which contained materials which had been so shipped and transported, by any means including by computer, and the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct, and such visual depiction was of such conduct, that is: GERALD ANDREW DARBY received a visual depiction bearing the file name "1413867287271.jpg".

(In violation of Title 18, United States Code, Sections 2252(a)(2), 2256(1) and (2).)

COUNT FIVE

THE GRAND JURY FURTHER CHARGES THAT:

On or about April 24, 2015, in Suffolk, in the Eastern District of Virginia, and elsewhere, defendant GERALD ANDREW DARBY did knowingly receive a visual depiction using a means and facility of interstate and foreign commerce and that had been shipped and transported in and affecting interstate and foreign commerce, and which contained materials which had been so shipped and transported, by any means including by computer, and the production of such visual depiction involved the use of a minor engaging in sexually explicit conduct, and such visual depiction was of such conduct, that is: GERALD ANDREW DARBY received a visual depiction bearing the file name "Superstar girl (full).avi".

(In violation of Title 18, United States Code, Sections 2252(a)(2), 2256(1) and (2).)

COUNT SIX

THE GRAND JURY FURTHER CHARGES THAT:

Between on or about November 3, 2014 and on or about January 7, 2016, in Suffolk, in the Eastern District of Virginia, defendant GERALD ANDREW DARBY did knowingly possess one or more matters, that is, an Asus laptop, serial number C5N0AS237796193, which was manufactured outside of the Commonwealth of Virginia, which contained visual depictions that had been mailed, and had been shipped and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce, and which was produced using materials which had been mailed, and so shipped and transported, by any means including by computer, and the production of such visual depictions involved the use of minors, including prepubescent minors and minors who had not attained 12 years of age, engaging in sexually explicit conduct, and such visual depictions are of such conduct.

(In violation of Title 18, United States Code, Sections 2252(a)(4)(B), and 2256(1) and (2).)

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

Between on or about March 30, 2015 and on or about January 7, 2016, in Suffolk, in the Eastern District of Virginia, defendant GERALD ANDREW DARBY did knowingly possess one or more matters, that is, an Asus laptop, serial number EBN0WU09800145C, which was manufactured outside of the Commonwealth of Virginia, which contained visual depictions that had been mailed, and had been shipped and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce, and which was produced using materials which had been mailed, and so shipped and transported, by any means including by computer, and the production of such visual depictions involved the use of minors, including prepubescent minors and minors who had not attained 12 years of age, engaging in sexually explicit conduct, and such visual depictions are of such conduct.

(In violation of Title 18, United States Code, Sections 2252(a)(4)(B), and 2256(1) and (2).)

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

Between on or about June 10, 2012 and on or about January 7, 2016, in Suffolk, in the Eastern District of Virginia, defendant GERALD ANDREW DARBY did knowingly possess one or more matters, that is, Seagate hard drive, which was manufactured outside of the Commonwealth of Virginia, which contained visual depictions that had been mailed, and had been shipped and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce, and which was produced using materials which had been mailed, and so shipped and transported, by any means including by computer, and the production of such visual depictions involved the use of minors, including prepubescent minors and minors who had not attained 12 years of age, engaging in sexually explicit conduct, and such visual depictions are of such conduct.

(In violation of Title 18, United States Code, Sections 2252(a)(4)(B), and 2256(1) and (2).)

CRIMINAL FORFEITURE

THE GRAND JURY FURTHER ALLEGES AND FINDS PROBABLE CAUSE THAT:

A. Defendant GERALD ANDREW DARBY, upon conviction of one or more counts in this Indictment, as part of the sentencing of the defendant pursuant to Fed. R. Crim. P. 32.2, shall forfeit to the United States:

1. Any and all matter which contains child pornography or any visual depiction described in Title 18, United States Code, Sections 2251, 2251A, 2252, 2252A, 2252B, or 2260 produced, transported, mailed, shipped, or received in violation of Title 18, United States Code, Section 2251 *et seq.*;

2. Any and all property, real and personal, used or intended to be used in any manner or part to commit or to promote the commission of violations of Title 18, United States Code, Section 2251 *et seq.*, and any property traceable to such property;

3. Any and all property, real and personal, constituting, derived from, or traceable to gross profits or other proceeds obtained from the violations of Title 18, United States Code, Section 2251 *et seq.*; and

4. Any other property of the defendant, up to the value of the property subject to forfeiture, if any property subject to forfeiture, as a result of any act or omission of the defendant (a) cannot be located upon the exercise of due diligence, (b) has been transferred to, sold to, or deposited with a third party, (c) has been placed beyond the jurisdiction of the Court, (d) has been substantially diminished in value, or (e) has been commingled with other property that cannot be divided without difficulty.

B. The property subject to forfeiture under Paragraph A includes, but is not limited to, the following items seized in or around January 2016:

1. One (1) Asus laptop computer, Model G75N, SN: C5N0AS237796193 and the hard drive(s) contained therein.

2. One (1) Asus laptop computer, Model G75IJ, SN: EBN0WU09800145C, and the hard drive(s) contained therein.

3. One (1) Seagate external hard disk drive, SN: 2GEVV7TA.

(All pursuant to Title 18, United States Code, Sections 2253 and Title 21, United States Code, Section 853(p).)

Pursuant to the E-Government Act,
the original of this page has been filed
under seal in the Clerk's Office.


United States v. Darby, 2:16CR 36


A TRUE BILL:

FOREPERSON

DANA J. BOENTE
UNITED STATES ATTORNEY

By:


Elizabeth Yusi
Assistant United States Attorney
Attorney for the United States
United States Attorney's Office
101 West Main Street, Suite 8000
Norfolk, VA 23510
Office Number: (757) 441-6331
Fax Number: (757) 441-6689
E-Mail Address: Elizabeth.Yusi@usdoj.gov


Leslie Williams Fisher
Trial Attorney
Department of Justice, Criminal Division
Child Exploitation and Obscenity Section
1400 New York Ave. NW, Suite 600
Washington, DC 20005
Office Number: (202) 616-2557
Fax Number: (202) 514-1793
E-Mail Address: Leslie.Fisher2@usdoj.gov